

SERVED: January 13, 2006

NTSB Order No. EA-5201

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)
on the 13th day of January, 2006

PETITION OF

WILLIAM E. DELLOW, JR.,

for review of the denial by
the Administrator of the
Federal Aviation Administration
of the issuance of an airman
medical certificate.

Docket SM-4667

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed by petitioner in this proceeding because it was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 C.F.R. Part 821).¹ The motion, to which petitioner filed no responsive pleading, is granted.

¹ Section 821.48(a) provides as follows:

§ 821.48(a) **Briefs and oral argument.**

(a) Appeal brief....each appeal must be perfected, within 50 days after the date on which the oral initial decision was rendered, or 30 days after the date on which the written initial decision or appealable order was served, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal. An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief.

The record establishes that petitioner filed a timely notice of appeal from the law judge's August 26, 2005 written order,² but he did not file an appeal brief within the time period prescribed by our rules,³ that is, by September 26.

In the absence of good cause to excuse petitioner's failure either to perfect his appeal by filing a timely appeal brief or to submit a timely extension request for filing the brief after the deadline, dismissal of his appeal is required by Board precedent. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. Petitioner's appeal is dismissed.

Karen R. Lanier
Acting General Counsel

² Because petitioner did not dispute that he had a history and clinical diagnosis of insulin-treated diabetes, the law judge dismissed petitioner's petition for review of the Federal Aviation Administration's denial of airman medical certification and terminated the proceeding.

³ Thirty days from August 26 was a Sunday; therefore, the brief was due on the next business day, which was Monday, September 26.